

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Rural Health Care)	WC Docket No. 02-60
Support Mechanism)	

**REPLY COMMENTS OF THE OFFICE OF THE GOVERNOR
OF THE COMMONWEALTH
OF THE NORTHERN MARIANA ISLANDS**

The Office of the Governor of the Commonwealth of the Northern Mariana Islands (“Commonwealth”), by its attorneys, respectfully submits the following reply comments in response to the Commission’s Notice of Proposed Rulemaking released on April 19, 2002 in the above captioned matter.¹

I. INTRODUCTION

In its Notice, the Commission requests comment on, *inter alia*, whether Section 254(h)(2)(A) of the Telecommunications Act of 1996 (“1996 Act”) gives it the authority to allow rural health care providers to receive discounts by comparing the rural rate to the nearest large city, even one located outside of their “state”.²

The Commonwealth is in desperate need of funding for its rural health care providers³, and is presently receiving none under the Rural Health Care Program. As shown below, the Commission has the authority under Section 254(h)(2)(A) to redesignate the Commonwealth’s

¹ In the Matter of Rural Health Care Support Mechanism, Notice of Proposed Rulemaking, WC Dkt. No. 02-60, FCC 02-122 (rel. Apr. 19, 2002)(“Notice”).

² Id. at para.50.

urban area as one located outside of the Commonwealth, thereby facilitating meaningful funding. The Commonwealth generally concurs with the analysis set forth in the Comments of the American Samoa Telecommunications Authority that Section 254(h)(2)(A) authorizes the Commission to provide meaningful support to insular areas such as the Commonwealth.⁴

II. THERE IS CURRENTLY NO INCENTIVE FOR COMMONWEALTH HEALTH CARE PROVIDERS TO PARTICIPATE IN THE PROGRAM

Due to its geographic isolation and low per capita income, rural health care providers located in the Commonwealth are in desperate need of funding for telecommunications services.⁵ Despite such need, the Commission's Rural Health Care Program has never provided any funding for telecommunications services to the Commonwealth's health care providers. Due to a policy barrier labeled by USAC as the "Hawaii Problem,"⁶ the Commonwealth's rural health care providers do not qualify for funding under the Rural Health Care Program's current rules.

Under the Commission's rules, only the difference between "urban rates" and "rural rates" within a state are supported under the Rural Health Care Program.⁷ In its Report and Order in CC Dkt. No. 96-45, released May 8, 1997, the Commission designated the entire island of Saipan as the urban area for purposes of setting the "urban rate," despite the fact that the

³ The attached Exhibit provides general background information on the Commonwealth, including its health care system.

⁴ See, e.g., Comments of the American Samoa Telecommunications Authority, WC Dkt. No. 02-60 (July 1, 2002).

⁵ See also Comments of the Commonwealth of the Northern Mariana Islands, CC Dkt. No. 96-45 at pp. 18-21 (Dec. 19, 1996).

⁶ Evaluation of the Rural Health Care Program, Universal Service Administrative Company Rural Health Care Division (Mar. 5, 1999)("USAC Report").

⁷ 47 C.F.R. § 54.609 (2001).

island has no town with a population of over 50,000.⁸ As such, only the difference between rates for services provided from Saipan on the one hand, and Rota and Tinian on the other, are supported. Currently, there is only a limited difference in rates for telecommunications services in the islands of Saipan, Rota and Tinian. As such, the Commonwealth's rural health care providers do not receive--and have not received since the program's inception in 1998--any support under the program's current rules.

III. COMMONWEALTH'S URBAN AREA DESIGNATION MUST BE REVISED PURSUANT TO SECTION 254(h)(2)(A)

A resolution to this problem is to re-designate the Commonwealth's urban area for purposes of calculating the "urban rate" as the nearest major urban area, regardless of whether the city is located within the same state (*i.e.*, the Commonwealth). If the urban area designation for the Commonwealth is thus changed (for example, to Honolulu or San Francisco), the Commonwealth's rural health care providers would become eligible for funding, removing the current barrier to participation in the program.

The Commission has the authorization to make this designation under Section 254(h)(2) of the 1996 Act. Section 254(h)(2)(A) states that Commission shall establish competitively neutral rules "to enhance, to the extent technically feasible and economically reasonable, access to advanced telecommunications and information services for all...health care providers."⁹ Section 254(h)(2) also provides the Commission with separate independent authorization to establish programs to provide support for telecommunications and advanced services to schools

⁸ In Re Federal-State Joint Board on Universal Service, Report and Order, 12 FCC Red. 8776, at 9137 (May 8, 1997)("Report and Order").

⁹ See 47 U.S.C. §254 (h)(2)(A).

and libraries as well as health care providers.¹⁰ Further, the Commission has recognized that Section 254(h)(2)(A) authorizes the adoption of special mechanisms by which to calculate support for the pacific insular areas.¹¹ Thus, the Commission has the authority under Section 254(h)(2) to expand the current Rural Health Care Program rules to designate an out-of-state urban area (such as Honolulu or San Francisco) for the Commonwealth.

Such support for the Commonwealth's rural health care providers is consistent with the stated intent of Section 254(h) of the 1996 Act. Section 254(h) intended that "health care providers for rural areas...have affordable access to modern telecommunications services that will enable them to provide medical...services to all parts of the nation."¹² Because the Commission's current rules exclude the Commonwealth's rural health care providers from receiving meaningful funding, they do not currently have affordable access to desperately-needed modern telecommunications services.

Further, the Commission has a duty under Section 254(h)(2)(A) to develop rules which promote access to advanced services for health care providers, including those located in the Commonwealth. Due to the Commonwealth's remote geographic location and low per capita income, the need for telecommunications funding for rural health care providers is significant.¹³ The Commonwealth currently lacks the facilities, medical specialists and trained personnel to

¹⁰ Report and Order at 9087. For example, in its Report and Order, the Commission used its authority under Section 254 (h)(2) to allow for funding for internal wiring and internet access for schools and libraries under the E-rate program. Id. at 9086. Further, the Commission used its authority under Section 254(h)(2) to provide for funding for toll-free access to the internet for all health care providers, regardless if located in urban or rural areas. Id. at 9158.

¹¹ Id. at 9135.

¹² See Joint Explanatory Statement of the Committee of Conference, H.R. Rep. No. 104-458, 104th Cong., 2nd Sess. at 132 (1996).

¹³ See Exhibit at 5-6.

provide advanced or specialized health care. As such, possibly more than any other area in the U.S., the Commonwealth relies on telecommunications for purposes of diagnosis, research or coordination. Therefore, the Commission should use its authority under Section 254(h)(2) to designate an out-of-state urban area for the Commonwealth (such as Honolulu or San Francisco) and thus provide meaningful funding under the Rural Health Care Program to the Commonwealth's rural health care providers.

IV. CONCLUSION

The Commonwealth urges the Commission to promptly take steps pursuant to Section 254(h)(2)(A) to ensure meaningful funding is provided to rural health care providers located in the Commonwealth.

Respectfully submitted,

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EXHIBIT

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

I. Background

A. Political Relationship with the United States

In 1947, the Commonwealth became part of the United Nations' Trust Territory of the Pacific Islands ("TTPI"), which was administered by the United States until 1976¹ when the "Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States" was approved by both a United Nations supervised plebiscite of Commonwealth residents and subsequently by Congress.² The Commonwealth is now a self-governing commonwealth in political union and under the sovereignty of the United States. Pursuant to Presidential Proclamation No. 5564 (implemented on November 3, 1986), all persons born in the Commonwealth both before and after the Covenant took affect are citizens of the United States.³ The TTPI was officially terminated on December 22, 1990 by the Security Council of the United Nations.

B. Government

The Commonwealth adopted its own constitution in 1977.⁴ The constitution provides for a governmental system analogous to that of a typical American state: the executive branch is represented by the Governor and Lieutenant Governor, the legislative branch by a House of Representatives (18 members) and a Senate (9 members), and the judiciary by the Superior Court and the Supreme Court.⁵ Both the current Governor, Juan

¹ U.S. Department of the Interior, Office of Insular Affairs website, <http://www.doi.gov/oia/facts2000.html> (visited May 24, 2002) ("OIA website").

² See 48 U.S.C. § 1801 note (Supp. 1999), approved by Congress in Public Law 94-241 (March 24, 1976), 90 Stat. 263 ("Covenant"). Under the Covenant, the United States has a special obligation to assist the Commonwealth in achieving economic development. Section 701 of the Covenant states that "[T]he Government of the United States will assist the Government of the Northern Mariana Islands in its efforts to achieve a progressively higher standard of living for its people as part of the American economic community and to develop economic resources needed to meet the financial responsibilities of local self government."

³ See OIA website.

⁴ *Id.*

⁵ *Id.*

N. Babauta, and the Lieutenant Governor, Diego T. Benavente, began their term in office on January 14, 2002.⁶ There is also a federal judicial presence in the Commonwealth, the U.S. District Court for the District of the Northern Mariana Islands.⁷

C. Location

The Commonwealth is a three-hundred mile archipelago consisting of 14 islands (Saipan, Rota, Tinian, Aguiguan, Farallon de Medinilla, Anatahan, Sariguan, Guguan, Alamagan, Pagan, Agrihan, Asuncion, Maug Islands, and Farallon de Pajaro) with a total land area of 183.5 square miles, or slightly larger than 2.5 times the size of the District of Columbia.⁸ Virtually all of the Commonwealth's population resides on the islands of Saipan, Tinian and Rota. The Commonwealth is 3,300 miles from Honolulu; 5,625 miles from San Francisco; 1,272 miles from Tokyo, Japan; and 3,090 miles from Sydney, Australia.⁹

D. Culture

The Commonwealth is a culturally diverse and vibrant area. While the people are chiefly of Chamorro and Carolinian descent,¹⁰ today the population reflects numerous other ethnic groups, including many people from Asia and individuals from Micronesian countries.¹¹ While the official language is English, the native Chamorro and Carolinian languages are spoken as well.¹² Spanish and Japanese cultural influences are also evident.¹³ The dominant religion in the Commonwealth is Catholicism.¹⁴

⁶ See OIA Website.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ U.S. Dept. of the Interior, Office of Insular Affairs, A Report on the State of the Islands, at 24 (1999).

¹¹ See Commonwealth of the Northern Mariana Islands Web-site, <http://www.mariana-islands.gov.mp/people.htm> (visited May 24, 2002) ("Commonwealth website").

¹² *Id.*

¹³ See OIA website.

¹⁴ See Commonwealth website.

E. Demographic Characteristics

The Census Bureau estimates that as of April 1, 2000 the population of the Commonwealth was approximately 66,611 people.¹⁵ Using data collected in 1995, 86.7% of the population (52,698 people) lived on the main island of Saipan, 8.2% (3,509 people) lived on the island of Rota, and 5.1% (2,631 people) lived on the island of Tinian.¹⁶ Also using 1995 data, the median household income in the Commonwealth is \$19,091 per year,¹⁷ while *per capita* income is \$6,450 per year.¹⁸

II. Telecommunications Market and Environment

A. Domestic U.S. Integration

In recent years the Commonwealth has become more closely integrated into the U.S. domestic telecommunications infrastructure. The Commonwealth became a part of the North American Numbering Plan on July 1, 1997 and was assigned the “670” domestic area code.¹⁹ Since September 1, 1997, the Commonwealth has also been encompassed under the Commission’s rate integration policy.²⁰

¹⁵ See Census 2000 Results for the Island Areas, <http://www.census.gov/population/www/cen2000/islandareas.html> (visited May 24, 2002).

¹⁶ Dept. of Commerce-Central Statistics Division, Commonwealth of the Northern Mariana Islands, 2000 Commonwealth of the Northern Mariana Islands Statistical Yearbook (“Commonwealth Statistical Yearbook”), at 4 (August 2001).

¹⁷ *Id.* at 62.

¹⁸ *Id.* at 62.

¹⁹ See *In re* Federal-State Joint Board on Universal Service, *Report and Order*, 12 FCC Rcd. 8776, 8996 at n. 1058 (1997)(citing to North American Numbering Plan Planning Letter, NANP-Introduction of New 670 (CNMI) Numbering Plan Area (NPA), PL-NANP-010 (Sept. 5, 1996)).

²⁰ *In re* Policy and Rules concerning the Interstate, Interexchange Marketplace, Implementation of Section 254(g) of the Communications Act of 1934, as amended, *Report and Order*, 11 FCC Rcd. 9564 (1996), *recon. denied by Memorandum Opinion and Order*, 12 FCC Rcd. 11548 (1997), *modified by First Memorandum Opinion and Order on Reconsideration*, 12 FCC Rcd. 11812 (1997), *partially stayed by Order*, 12 FCC Rcd. 15739 (1997), *denied in part, granted in part and remanded by GTE Service Corp. v. FCC*, 224 F.3d 786 (D.C. Cir. 2000).

B. Telecommunications Companies

Micronesian Telecommunications Corporation (“MTC”) and its subsidiary, GTE Pacifica, provide the vast majority of telecommunications services both within and to destinations outside of the Commonwealth. MTC is the sole provider of local telecommunications services. GTE Pacifica and MTC (collectively, “Verizon Affiliates”) are both affiliates of Verizon Communications, Inc. (“Verizon Communications”). Verizon Communications and its affiliates, collectively, are the largest providers of wireline and wireless communications in the United States, with nearly 134 million access line equivalents and over 29 million wireless customers.²¹

C. Competition

1. Local Services

There is no competition in the local telecommunications market. MTC is the sole provider of local exchange service and exchange access service.

2. Off-Island Long Distance Services

Competition in the provision of off-island services is very limited as GTE Pacifica is the dominant service provider. The Verizon Affiliates essentially control access off the islands by means of their ownership of the sole submarine fiber optic cable connecting the Commonwealth islands of Saipan, Tinian and Rota with Guam (and, in turn, with various submarine cables connecting Guam with the rest of the world).²² The Verizon Affiliates also control essential multi-purpose earth station facilities necessary to reach the Pacific region’s INTELSAT satellites.²³

²¹ See <http://investor.verizon.com/profile/index.html> (visited June 3, 2002).

²² *In re* Micronesian Telecommunications Corporation Application for a License to Land and Operate a High Capacity Digital Submarine Cable System Extending Between the Commonwealth of the Northern Mariana Islands and Guam, *Cable Landing License*, 8 FCC Rcd. 748 (1993); and *In re* Micronesian Telecommunications Corporation and GTE Pacifica Incorporated, Application, ITC 97-778-AL (Dec. 11, 1997).

²³ *In re* Micronesian Telecommunications Corporation Application for Section 214 Authority to Acquire from Comsat Earth Stations, Inc., *Memorandum Opinion, Order and Authorization*, 3 FCC Rcd. 1617 (1988).

D. Penetration Rate

According to U.S. Department of the Interior statistics, the overall telephone penetration rate in the Commonwealth in 1995 was 61%, far below the U.S. average.²⁴ While the penetration rate on Saipan (the most populous island) was 62% in 1995, penetration on the other two populated islands, Rota and Tinian, was only 53.3% and 52.1%, respectively, in 1995.²⁵

III. Health Care

A. Overview

The Department of Public Health, operated by the Commonwealth government, is the sole provider of comprehensive health care services in the Commonwealth.²⁶ The primary health care facility in the Commonwealth is the Commonwealth Health Center, a 74-bed, two-level hospital located on Saipan that provides medicine and treatment, dentistry, nursing and other ancillary services.²⁷ The Commonwealth Government also maintains two smaller facilities, one on Tinian and another on Rota.²⁸ Each of these smaller health care units provides emergency care, 2-3 beds, x-ray, pharmacy and dental services.²⁹ While several small, private medical and dental clinics exist on Saipan, there are no such facilities on any other Commonwealth island.³⁰

B. Problems in Health Infrastructure

As a geographically distant commonwealth with a low per capita income rate, the Commonwealth has traditionally had difficulties in dealing with increased health care costs, despite aid from federal agencies such as the U.S. Public Health Service and the

²⁴ See A Report on the State of the Islands, at 117.

²⁵ Dept. of Commerce-Central Statistics Division, Commonwealth of the Northern Mariana Islands, 1996 Commonwealth of the Northern Mariana Islands Statistical Yearbook, at 96 (November 1997).

²⁶ See OIA website.

²⁷ See Commonwealth Health Center website, <http://www.medicine-saipan.com> (May 24, 2002).

²⁸ See A Report on the State of the Islands, at 31.

²⁹ *Id.*

³⁰ *Id.*

Department of the Interior.³¹ By law, the Commonwealth health care system must provide service for everyone, regardless of their ability to pay for such services.³² Off-island referrals to Hawaii and other mainland areas are often necessary due to the lack of specialists and equipment in the Commonwealth, making the provision of health care services expensive. The lack of access to specialists and adequately trained personnel in the Commonwealth, compounded by the fact that it is more expensive to offer specialized medical services on the islands than on the mainland U.S., have made the health care situation that much more desperate.³³ If the Commonwealth is to continue the provision of health care service at its present quality level it will need significant assistance from the U.S. government.³⁴

³¹ See A Report on the State of the Islands, at 31

³² *Id.*

³³ *Id.*

³⁴ *Id.*